

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION**

**Call to Order:** By **CHAIRMAN GAY ANN MASOLO**, on February 12, 2001  
at 3:00 P.M., in Room 137B Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Gay Ann Masolo, Chairman (R)  
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)  
Rep. Bob Lawson, Vice Chairman (R)  
Rep. Joan Andersen (R)  
Rep. Norma Bixby (D)  
Rep. Gary Branae (D)  
Rep. Nancy Fritz (D)  
Rep. Verdell Jackson (R)  
Rep. Hal Jacobson (D)  
Rep. Larry Lehman (R)  
Rep. Joe McKenney (R)  
Rep. John Musgrove (D)  
Rep. Alan Olson (R)  
Rep. Ken Peterson (R)  
Rep. Butch Waddill (R)  
Rep. Allan Walters (R)  
Rep. Merlin Wolery (R)

**Members Excused:** Rep. Jeff Mangan (D)

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Branch  
Nina Roatch, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 483, 2/2/2001;  
HB 505, 2/8/2001

Executive Action: HB 181; HB 505

**HEARING ON HB 505**

**Sponsor:** REPRESENTATIVE TOM DELL, HD 19, Billings

**Proponents:** Frank Gilmore, Montana Tech-University of Montana  
Inga Nelson, MEA-MFT  
Rod Sundsted, Montana University System  
Dustin Stewart, Association Students of Montana  
State University  
Joyce Scott, Deputy Commissioner of OCHE  
Ken Woosley, Director of University Relations at  
Montana State University-Billings

**Opponents:** None

**Informational:** Sue Romsa, Great Falls

**Opening Statement by Sponsor:**

**REPRESENTATIVE TOM DELL, HD 19, Billings,** stated that he was going to present a better budgeting bill for higher education. Currently all the university units are required to project, for funding purposes, how many students they anticipate will show up each year as FTE's (Full Time Equivalent Students). An example to help the committee conceptualize the bill would be MSU-Billings anticipating and requesting funding for 1,000 students. The problem then occurs when only 900 students register. The university units then have to return all the funding for the missing 100 students. The problem is that the school has already hired teachers and spent resources in anticipating meeting the educational needs of all 1,000 students. When they have to return those dollars, they have to make budget cuts. Sometimes they have to make extremely drastic cuts to critical programs to afford to return the dollars. The bill contains the terminology "reversion of funds." They are the dollars that have to be returned and this bill addresses them. Looking at the fiscal note, the committee will see there is no fiscal impact to the general fund. Instead of using the formula, where the university units run the risk of mis-projecting how many students are actually going to show up on the first day of school and run the risk of very profound budget cuts, they would, with the bill, have the option of using the previous three years average of FTE students in calculating how much funding they have to return. This bill is like budget billing that averages a person's electricity bill over a year and then one pays the average. It protects the consumer from price hikes that require him to send large sums of money to the utility company. What this bill does

is essentially the same thing for the individual units of the university system. It allows them to project student enrollment based on a running three year average rather than doing a best guess estimate and then suffering a major hit to their budget. This bill is a more logical budgeting tool for the university system. Projections are always best when based on averages instead of just one month or one year. This bill offers university units predictability at a time when they need to manage tight revenue and tight expense projections.

**Proponents' Testimony:**

**Rod Sunsted, Associate Commissioner for Fiscal Affairs for the Montana University System,** said in figuring future enrollments, although one would think them easy to project, there are a lot of factors involved besides the number of high school graduates. The job market, what the economy is like in that area, etc. affect enrollment. On a number of occasions they have had one unit drop 140 FTE's and come right back up the next year. What happens under the current situation is, not only does the school lose the funding from the state, and that is about \$1900 per student, it also loses the tuition, which is about \$2400 per student. If the unit loses 100 students, it is down about a half million dollars. That is a great hit for an agent unit like Billings, Western, and Northern. Frankly, it is a big hit for the larger campuses also. What the bill would do, at least potentially, is give the units a chance to gradually make that reduction because if the school dropped 100 students but the difference between the projection and the three year average was only 40 students, the school would revert to the smaller number. He sees the bill as having no downside to the units and does potentially give them some relief when they have unanticipated large shortfalls in their enrollment and it gives them some ability over time to make the reversions.

**Ken Woosley, Director of University Relations at Montana State University-Billings,** said, in support of what they had just heard, he is present to help you understand what it does to a small campus like Billings where the total headcount, not FTE, is 4300. The legislation serves as a management tool to help them make wise decisions in a greater span of time rather than in a few weeks. In 1997 they took a major hit in FTE enrollment. They went from 3,486 FTE's the previous year down to 3,307. That was nearly a 200 FTE drop. The next year they went back up to 3,593. In the space of one year they dropped 200 FTE's and the next year they claimed another 200 FTE's. When you have a campus like MSU-Billings, that is so unlike any of the other units in the system because they are an urban campus and because they have so many nontraditional students and because they have a much

older population, it is dictated by the economic conditions and other factors in the Billings area. This piece of legislation would help them weather through those periods of wide swings like he has described. Just this last fall the school dropped to 3,536 FTE's from the previous year of about 3,584 and then spring semester they climbed back up to 3,700. It is a yo-yo effect.

**Frank Gilmore, Chancellor at Montana Tech-University of Montana,** stated that his school badly needs a bill of this type to provide management tools to manage enrollment. If the committee was to look at ten years of enrollment at Montana Tech, it looks like a sine wave, but with an average that is slightly increasing. It goes up and it goes down. If they could average it, it would greatly assist them in knowing what their budget is going to be. It is important to know what his budget is going to be, because it is very difficult to turn things around in an institution of higher education. Their faculty are tenured. They cannot cut faculty without specific kinds of notice. They must give six months advanced notice to many of them. The same is true about the classified staff. They cannot turn things around as quickly as they would like. It means that they end up making cuts in operation and other kinds of funds that makes them not be good managers.

**Steve Hulbert, Chancellor of Western Montana College of the University of Montana,** said his situation is very much the same. Western is the smallest unit in the state. It has approximately 1,160 students. The situation that they face is that in 1997-1998 they had 1,032 FTE's. In 1998-1999 they dropped by 62. They were well past spending two-thirds of their budget for the year and it was very difficult to recover from a decline when they had to give money back to the state at that time of the year. The impact has to be on activities that are not yet completed. Sometimes they are repair projects on the campus or purchasing equipment and supplies. In a very small institution there is very little flexibility in a small budget. By having a three year average it would allow them to do better and protect themselves.

**Kathy Conover, Montana State University,** said this bill is particularly important to the state's small campuses. Not only do they have the reversion impact, but they lose the tuition dollars.

**Inga Nelson, MEA-MFT,** said they support the bill. Using a three year average of enrollment will result in a more steady and equitable funding of the university system campuses.

**Joyce Scott, Deputy Commissioner with the Office of the Commissioner of Higher Education**, said she thinks of a roller-coaster when she thinks of the process the units have to work through with rapid reversions when there is declining enrollment. Overall, she believes **HB 505** would provide the system with much greater stability in budget planning, much wiser management and an opportunity for better decision making in accordance with their academic and instructional priorities. The averaging would facilitate better management. Some of the drastic harmful cuts in an impromptu fashion can have a very devastating impact on programs and operations.

**Dustin Stewart, Associated Students at Montana Tech and University of Montana-Billings**, said it has been said it is a good management tool for the units, but he would like to tell what it does for the students. When impromptu cuts are made in the middle of the semester, materials are not available for the students enrolled in the classes. A lab can be cancelled because of budget cuts. Course fees can be raised to meet the budget cuts.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REPRESENTATIVE VERDELL JACKSON** had a question for the **SPONSOR**. He said he was trying to understand the technical note at the bottom of the fiscal note. The **SPONSOR** asked that **Rod Sundsted** be allowed to answer fiscal questions. **Mr. Sundsted** said he believes the technical note on the fiscal note is an error. He is going to get with the budget office. The way the bill is written, a unit could use the current method or the three year average, whichever one is lower. He does not believe it could increase the reversion amount. In periods of severe drops in enrollment, it could decrease the amount. **REPRESENTATIVE JACKSON** asked him to explain to the committee how this would affect both a situation where enrollments are dropping and where enrollments are increasing. Does it affect both those situations. **Mr. Sundsted** said he believes when enrollments are increasing this bill would not have any impact. It will be based on actual or projection.

**REPRESENTATIVE JOAN ANDERSEN** asked **Mr. Sundsted** if the university units could decide what method they were going to use each year, or must they decide which method they are going to use and must stick with it? Can it change from one year to the next?

**Mr. Sundsted** said that it is written into the bill that the unit can use one or the other method, whichever produces the lower number. At present it is a biennial reversion. It is structured

the same in the bill so it is not a decision made each year.

**REPRESENTATIVE ANDERSEN** asked how is the FTE figured?

**Mr. Sundsted** said the system calculates the enrollment by semester. Then they use three semesters to calculate the annual academic year's FTE and it is based on 30 semester hours. For every 30 semester hours they generate one full-time FTE.

**Closing by Sponsor:**

**REPRESENTATIVE DELL** said that **HB 505** is not a radical bill, but it can have dramatic results for the smaller university units. This bill won't provide an increase in appropriations to the units, however, it is good news to the units in terms of this tool in the toolbox. It will allow university units to better manage their enrollment projections so that they don't experience a major disruption to their programs if anticipated enrollment figures are way down. When that happens they have to cut programs and it can be ugly.

**HEARING ON HB 483**

**Sponsor:** **REPRESENTATIVE DAVID WANZENRIED, HD 68, Missoula**

**Proponents:** None

**Opponents:** **Loran Frazier, SAM**  
**Dave Puyear, MREA**  
**Lance Melton, MSBA**  
**Wayne Buchanan, BPE**  
**Inga Nelson, MEA-MFT**

**Opening Statement by Sponsor:**

**REPRESENTATIVE DAVE WANZENRIED, HD 68, Missoula,** stated that he has never been a teacher. He doesn't have the courage to face students everyday. He respects teachers a great deal. His bill is going to bring up a lot of sensitive points and it is going to be very difficult for some people to not be emotional about the context. He wants the committee to know that he has no axe to grind with anyone. What he wants to bring to the attention of the committee is a trend which raises expenditures in some areas. Everyone knows how much we need money. When he was here in 1983 he took a look at what the expenditures were and in what categories they were in, just to find out if the legislature invests money in education where the money is being spent. For too long schools haven't had to worry about where to spend new money because there hasn't been any. There won't be much for the next few years either. With any money that is allocated by the

legislature, it becomes a matter of establishing priorities. That is what this bill is about. Yes, it is a matter of local control. That is the case. What the bill proposes to do is, starting next fiscal year, which would be fiscal 2003, school boards and administrators would be limited in their expenditures in general administration of schools and extra curricular activities to no more than an average of the preceding five fiscal years. He imagines people will feel that he is interfering at the local level. He wants to remind the committee that there are budget limitations in place overall and this is not going to interfere with that. He wants committee members to think long and hard about what their constituents told them when they were running for office. They want schools to get back to the basics. When we talk about a world class education system, we are focusing on academic achievement, just like the Governor pointed out in her State of the State message. Over the last eight years the ratio between students and teachers in the classroom has risen dramatically. Why is that? We all say that we don't want that to happen. It happens. He handed out an informational document. **EXHIBIT (edh35a01)** He went over it with the committee. It was a Chart of Accounts that schools are required to use to report expenditures to the state. The general accounting numbers that the bill would use in the five-year averages are: 2300 Support Services-General Administration, 2400 Support Service-School Administration, 2500 Support Services-Business, 3400 Extracurricular-Activities, 3500 Extracurricular-Athletics. He has watched where money has gone when he was in the legislature before. He handed out his second exhibit. It documented the fiscal changes in the general fund expenditures for fiscal year 1996 through fiscal year 2000. **EXHIBIT (edh35a02)** Why would one want to limit how much can be spent on administration and extracurricular activities? Is it good public policy? He will let the legislature decide that along with funding levels that they establish. OPI prepared the document, but that doesn't mean they support the bill. He went over the figures with the committee. The bill tells the school board if it expects an expenditure in excess of the average growth over the five-year period, it can ask the voters to approve the amount exceeding the level set in the bill. This would not allow the school district to exceed the overall budget limitations that have been set already. They would have to go to the voters and justify the extra costs. One of the concerns raised in the fiscal note is that this may raise equity issues in extracurricular programs in Title 9 and the Montana Human Rights Act. When they are raised right now, what happens? The public doesn't know about it. School boards will have two choices. They will have to have voters approve a raise or fund the category at available levels by reducing expenditures. He believes the voters are smart enough to acknowledge when something needs to be done. If the accreditation of a school is

at stake for any one of the issues he is talking about, he is sure the voters will vote correctly. Another argument will probably be that it will pit one interest group against another one. That happens right now. At present the members of the school board must resolve these problems and sometimes he isn't sure the board members can take the heat to resolve the situations. There is a teacher crisis that is going to be part of education soon and he asked the committee, "What are we going to do about it?" We are going to ask the schools to cut other programs and we better make sure they keep the ones they have and have the resources to hire new teachers. He believes the bill is essential for the committee's consideration. He doesn't know if it is the perfect bill to do the job. We have to take a look at the priorities in the education pie. We need to involve the public in assisting in re-prioritizing these programs. He doesn't believe the public understands how important the programs being addressed in the bill are and this will provide an avenue to take care of that.

**Proponents' Testimony:** None

**Opponents' Testimony:**

**Loran Frasier, SAM,** said he was talking to a person who compared this bill to a block of swiss cheese. It has a lot of holes in it. It has a lot of intended consequences and a lot of unintended consequences. It is basically saying that a group of people that he feels represent the most true democracy in Montana and in the country, being the school board of trustees, that the public doesn't like the way the board is spending the schools' money. That is something that the committee needs to consider. It is really saying to the local trustees, "You're spending the money wrong." The **SPONSOR** is telling him that the legislature wants to micro-manage what trustees are doing. There is another law that says that they are to manage the district, the district money, the hiring and firing, along with that they set the salaries. If the legislature wants to cut them out of these duties, then look at the five-year average. The five-year average is a cut to the present current rates. The first time out, you are looking at a cut. There isn't a clarity as to what is in the 2300 account. If one is thinking it is just salaries and benefits, a lot of school districts have reported legal expenses in that category. Everyone knows that litigation in schools has increased tremendously. He could expect a rise in that cost. It does not clarify in this bill when you can go to the public with a school election. He believes that the only school election that can be called, outside of the Tuesday after the first Monday for general fund money, is in May. Can you imagine a school board hiring a superintendent in February,



January or March and saying, "We'd like you to come to this district, but we have to go to the public to finish your salary?" The **SPONSOR** talks about a teacher crisis, he is present to tell the committee there is an administrative crisis. A lot of good teachers do not see the advantage of becoming an administrator and the pay differential is not that great to take on the extra stress, extra time, etc. A lot of districts cannot afford to wait for that vote. If your building code (2400) shows an increase, you have building principals who have tenure and rights to the same salary, so the five-year average could not cut their salaries. In those areas of 2300 or 2400, you have secretaries, equipment, supplies, and many items beside salaries, so you need to look at that. If the voter turns down the needs, where does the board go next? He believes the **SPONSOR's** heart is in the right place and the legislature needs to look at these kinds of problems, but he is present to tell them they have to look at the whole situation and not try to piecemeal it. If the intent is to get school districts to consolidate, then they should be given an incentive to do that. We have reached a funding crisis in the state and the funding system needs to be looked at. It is the starting place. If their goal is to reform the system, and if they are to make the process a positive difference in the quality of education for the children, then the funding and structure of the system must be looked at. The system was put together many, many years ago. Do you need the 180 days? Do you need more time? With technology today, there probably are other ways of delivering, that might help the cost expense or it could increase it. That is part of the study. You also have a constitutional problem. If he remembers correctly, the Supreme Court gave extracurricular activities as an extended part of the daily curriculum. If extracurricular activities are not important to the social well being of the student (and the court said they are), then there is a problem here. You have a problem with the BPE. They are the ones that set the accreditation standards. They tell you how many administrators the district needs over a certain number of FTE's. The bill is infringing upon their ability and rights in statute to express that.

**Dave Puyear, MREA**, stated that his organization strongly opposes the bill. They feel that for the rural schools across the state, it is a very bad idea. The bill is a train wreck down the tracks, should this bill be forwarded. He believes the bill does not address the teacher shortage that is coming. His organization tracks the number of administrator shortages. They have done it every year. Several years ago it was 40, in 1999 it was 47 and this past year there were 43 openings. These numbers address only superintendents and not principals. The state is in a serious crisis when it comes to shortages and the implications of them. This bill has implications toward those shortages. It sets in action a very cumbersome mechanism that is built into the

bill. The **SPONSOR** mentioned local control. That is precious to his organization. They believe in that control and they do think this bill infringes on the control of local trustees. These are matters for the local trustees to decide. The bill is an issue of micro management. There are tremendous research projects out there showing what extracurricular activities do for the children and how that links and coincides with their success and performance in the classroom. He has concerns that the bill is taking a very successful system and putting a wet towel in the face of people who are working very hard in their areas. In rural areas there can be very complex agreements that are made with administrators. Many who serve in a rural area are aware of that. He is not sure the **SPONSOR** has built them into the mechanisms of the bill. The job description of an administrator in a rural district is far different than that of one in an urban area. The many jobs they do in a rural area is part of the package when they negotiate their salaries and their situations with the school boards. That is pretty complex to put in this kind of situation, in this time of shortages. He believes it sends a mean-spirited message at a time in Montana when we can least afford it. Is this the kind of message to send out across Montana?

**Lance Melton, MSBA**, stated he was present to oppose **HB 483**. He concurs with the testimony given by **Dave Puyear** and **Loran Frasier**. There is a real issue with respect to tenured administrators. In the late 70's the legislature eliminated tenure for specialists under Montana law. School boards went out and said, "You're no longer tenured." They went to court and the court said, "Once you have gained tenure, you can't lose it." With tenure comes salary protection. The five-year average is a real constitutional problem. School funding is a rock and this bill becomes a hard place. His trustees that he represents have a very difficult time trying to figure out how to pay the bills in a state of declining enrollment. The Governor's budget cut 17.8 million dollars from education over the next two years. Montana loses administrators to other states just as fast as it loses teachers to other states. He submitted written testimony.  
**EXHIBIT (edh35a03)**

**Wayne Buchanan, BPE**, stated that he understands the intent of the bill. He understands the content of the bill as far as it goes. He understands the frustration which gives rise to bills of this kind. When one is out on the campaign trail, one hears over and over again, the public perception that there are too many administrators and too much money goes for areas like basketball, football and other extracurricular activities. Some of these are accurate and some are not. Public perception is sometimes based

on this idea that Montana has way more administrators. Actually, the BPE rules having to do with administrators aren't that burdensome for school districts when we hear over and over again that they are. The BPE requires one principal for every 550 students. When one stops and thinks about it, that's not very many administrators. That shouldn't be burdensome to districts and generally it isn't. Most of the school districts stay within the minimum requirements of the accreditation standards. He believes that the **SPONSOR** did as good a job as he has ever heard of addressing both sides very fairly in the bill. He thinks this legislation is ill advised. He doesn't think it is a good idea. It would be hard for school districts to comply with and he agrees with the other opponents.

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**Inga Nelson, MEA-MFT**, said that her organizations feel local districts should make the decisions talked about in the bill and they urge the committee to not pass the bill.

**Questions from Committee Members and Responses:**

**REPRESENTATIVE VERDELL JACKSON** had a question for the **SPONSOR**. Several people have indicated today that this bill may be interfering with local control. Do you feel that it does? The **SPONSOR** said the sure way to kill a bill is for it to have something to do with local control. If there was a cap on interfering with local control, he would say the bill is doing that. With the opportunity to take these kinds of issues to the voter, he would submit that the bill does not interfere with local control. When local control is talked about, one talks about it as being the school board. The legislature doesn't represent the public in state's rights issues. The public does, we are the public. The bill allows a vote on the issues, so he doesn't feel it is interfering with local control.

**REPRESENTATIVE JACKSON** said that one objection was that it may be unconstitutional because of the power given to the BPE and they operate at the state level and have given regulations that are found in the front of the accreditation document which mandates the hiring of these same people that the bill would limit. Do you feel that these regulations limit local control? The **SPONSOR** said this bill has passed the muster for being constitutional. There is a checklist that one gets back if it is not constitutional. He didn't receive one. It would not have been introduced if, on the face of it, it was unconstitutional. Is it constitutional to have a challenge of the accreditation standards of the BPE? Of course, it is. This bill doesn't bring about that challenge, it simply says, "If you are forced into that situation by the state, for any reason, be it a standard that is

set by the BPE or the state legislature, you can allow the public to vote on the cuts." We don't have to cut all these things we are talking about. If there are agreements in place locally, where the superintendent drives a bus route, fine, do that. Before the district cuts other things, including classroom instruction, it will have to take a long careful look at administrative costs. That is the intent of the bill. If those costs are imperative, the voters will be given the opportunity to vote on them.

**REPRESENTATIVE LARRY LEHMAN** asked the **SPONSOR** if he would agree that a local board is a microchasm of the state legislature? The **SPONSOR** said he hadn't thought about it. Generally that is the case, but in specific application of the case, no.

**REPRESENTATIVE LEHMAN** said, if one thinks about it in general terms, the legislators are a larger type of local control in that they represent areas just as trustees represent a school district. If one was to carry the bill out in this analogy a little further, would he not agree that if the legislature is going to raise the budget by a certain percentage, he as a legislator would have to go back to his constituency and have them hold an election to determine whether or not he could vote for the increase in the state budget? The **SPONSOR** said he isn't sure he wouldn't oppose the situation described by the Representative. There is legislation circulating now for signatures that would limit the growth rate of the state budget. There are all kinds of provisions in the state constitution that require simple majorities and certain things that can be done without a vote of the people. We need to get to that point where we establish priorities more directly by involving the public.

**REPRESENTATIVE LEHMAN** said that he feels that when legislators are elected they have to act in the best interest of the constituency that they represent. He asked the **SPONSOR** if he would agree that if one doesn't do that, he may not be re-elected? The **SPONSOR** said, of course.

**REPRESENTATIVE JACKSON** asked **Mr. Frasier** about the fact that we are facing a time when schools must cut their budgets and he wanted him to pick out some areas that he believes have grown too fast and caused some of the problems. It seems to the Representative that we have some laws in place that make it difficult to set the budget when you have a system operating it. The constitution says that we are suppose to provide basic education and we have all the things called extracurricular, transportation, hot lunch programs, etc., would it be legal for a school to eliminate their hot lunch program? **Mr. Frasier** said that is a local control issue, possibly the hot lunch program could be cut just like other programs. This bill makes it difficult in the area of extended contracts for administrators,

for instance, if you wanted to cut an administrator with an extended contract, then what happens to the budget. As far as cutting administrators, he believes in the past four or five years they have cut probably about 53 principals. He knows that eleven more are marked to be eliminated this year if funding doesn't come. It isn't that schools haven't made an attempt to cut in the areas being talked about. A lot of school boards and communities will have to make decisions as far away from the classrooms of required subjects as possible. **REPRESENTATIVE**

**JACKSON** said that from the hearing on Friday with OPI projecting that the state will lose another 5,000 students in the next two years, it does create a situation that needs to have a hard look at what can be cut. From the testimony today it seems there are areas where it will be difficult and the hot lunch program would be one of them because it would deal with salaried people who most likely belong to unions. At present he believes there is a requirement that if kids live three miles from the school, the law says the school is required to run the bus and he knows from a previous bill heard in the committee that schools reimburse parents to bring their kids to school. Is there any way to make cuts in this area? **Mr. Frasier** said he believes that part of the problem in working through school budgets is that you do have state statutes that say the school must transport those children to school. The district could also write individual contracts to a lot of them, but he thinks that by the time fifty individual contracts were written and the bus had been hauling fifty of them, the bus is probably still the cheaper transportation. It is unfortunate that when there is declining enrollment the student leaves and takes the revenue, but it didn't take the expenses. **REPRESENTATIVE JACKSON** said the area that the **SPONSOR** is addressing seems to involve these same types of complexities. Would a bill like this help school districts to cut the areas that are going to cause the least damage to our basic instructional program? He doesn't want to cut the core of education, but we know that there is not enough money to do business as usual and the schools are going to have to address the problems very soon. **Mr. Frasier** said that he thinks when one looks at the cutting, schools can do all the cutting they want, take away all the administrators they want, they can take away some of the business department, but someone is still going to have to do the work. That is something that needs to be thought about as legislators make all of the suggestions. The work is there and if the people cut aren't doing it, who is going to be doing it?

**REPRESENTATIVE OLSON** had a question for the **SPONSOR**. Why should this not be totally left up to locally elected trustees? The **SPONSOR** said it is right now, but one needs to ask yourself, "Where is the money going?" The money isn't going where everyone

says it should go. We want a world class education system and it is not. The committee should ask themselves about trends that the school districts report. If those are the priorities in education, do what you need to do. **REPRESENTATIVE OLSON** stated that there are districts in the state that do put extracurricular activities on the ballot and there are districts that have cut it and followed up the next year putting it on the ballot. Why should this not be left up to the locally elected officials to determine what will and will not be funded? The **SPONSOR** said he only brings to the attention of the committee a trend, a trend that was in existence when he was in the legislature in 1993 and looked at the information before, the growth rate was the same. The biggest concern that people have about putting this on a school ballot, school administrators never fair very well. He doesn't know that is the case. If a district wants to put something on the ballot to triple costs, there is nothing in his bill that won't allow them to put it there and get the voters approval.

**REPRESENTATIVE KEN PETERSON** had a question for the **SPONSOR**. Are you trying to send a message of some kind to these school board trustees and the BPE, and if you are, what is it? The **SPONSOR** said there is no more of a message in his bill than there is in the appropriation bill that is going to fund education. Whatever the funding turns out to be, it is pretty clear it will not meet the needs of the people who testified about their needs. Within that, he is saying Montana is at the point now in the process that whatever level the legislature decides to fund education, we have to separate the wheat from the chaff. His feeling is that we need to put more emphasis on classroom related instruction. That is his opinion and priority in this bill.

**REPRESENTATIVE PETERSON** asked **Mr. Frasier** what kind of message he believes this bill is sending to the school district trustees and the BPE? **Mr. Frasier** said that the message he gets from this bill is that they are spending too much in other areas besides instruction and he strongly feels from the sections read from the constitution, all of this responsibility rests with the board of trustees because they are the ones the people elected to run the school. If they want to pay a certain amount for administration, etc., they are responsible to the electors of the district. He believes it is sending a message that we are spending too much in some areas and we need to change it over to the instruction area. **REPRESENTATIVE PETERSON** asked him if he thinks it might be sending the message that some of the electors and constituents believe that the school trustees and the BPE are not doing their job? **Mr. Frasier** said that is exactly the way he interprets parts of this bill.

**Closing by Sponsor:**

**REPRESENTATIVE WANZENRIED** said that one of the arguments against the bill is that it is a piece meal and not represented as being comprehensive. The legislature is not dealing comprehensively with education this session. If they were, they wouldn't have the limitation that they can't spend anymore than "x" number of dollars in the school budget and the schools are going to get "0 and 3." That isn't piece meal if we look at the number of dollars being talked about and the needs that exist for the educators present. We have to start some place. Is this bill perfect, no. The rhetoric about school funding needs to match the money. The trends he has looked at for the past five years lead him to believe that the priorities talked about at the legislature are shared by the people in the state. Do the school boards represent their constituencies more than the legislators, he doesn't know. He is not adverse to having the voters have a stake in the outcome of these kinds of elections. He doesn't see the principal fired or laid off because the district doesn't have enough money. There are going to be administrative costs that school districts are going to have to have to fulfill the contract and, if that is the case, they look at the balanced administrative costs and, if all are critical, the voters will understand that. If trustee members truly reflect the need, voters will vote for it. There was talk about the bill being a swiss cheese bill, he will accept that. He would ask the committee to look at the holes in the bill along side the holes that are going to be in the appropriations measure that is reported out of education. What kind of message is that going to send to the schools in the state? Is that mean-spirited? He is not suggesting that extracurricular activities are not important for a rounded education. Unfortunately, at present, we need to make some choices between what the central message is going to be all about and if we do need those things that we all agree about, let's let the voters participate in making that decision if it goes beyond a growth factor that he believes is fair. If it results in a cut, yes it does. If something like this isn't done, legislators will be back in a couple years talking about a lot more piece meal activity than what is before the committee. He asked the committee members to talk to their constituents. Keep this bill in mind as you look at other bills that come before the committee that have to do with funding. It seems clear to him that if we have a problem in this country and state, the cost of administering governmental service including education needs to be looked at very carefully. We all are told that they have information services and they can do it better and faster, more accurate than people can, there are new management techniques out there, but every time we want to do something, we hear we can't cut that because we need it. We are going to have

to cut administrative costs for giving the public services they want.

**EXECUTIVE ACTION ON HB 505**

**Motion:** REP. OLSON moved that HB 505 DO PASS.

**Discussion:**

**REPRESENTATIVE MERLIN WOLERY** said he could support the bill and the **SPONSOR** of the bill said that there would be no cost, but there will be. If they can take a running average of three years or the one year reversion number, they are going to take the one that gives them the favorable amount.

The **CHAIR** said the bill allows the units to take whichever is lower.

**REPRESENTATIVE WOLERY** said he is talking about the reversion amount.

The **CHAIR** said she had that question in her mind.

**Connie Erickson** stated that the fiscal note said there would be no cost. She believes the impact would come, this is for the reversion, if the three year average would lower the amount of the reversion. Yes, there would be less money being reverted, but that money had already gone out and there would be less coming back in. The fiscal note was saying that they are going to assume that the enrollment projections are pretty accurate. There probably isn't going to be much of a difference.

**REPRESENTATIVE WOLERY** said that confirms his concern. If there is less coming back, then someone will have to pay more. You don't create money by mailing it in and out. He may still support the bill.

**REPRESENTATIVE GARY BRANAE** stated that he is trying to get the process straight. This bill would not affect the amount of money the school would get. It is about how much they would have to send back.

**Connie Erickson** said it is written into **HB 2** that if their enrollment projections are below what they thought they would be, the units are required to revert that funding back. There will still be reversions using the three year average. The reversions will not be as large.



**REPRESENTATIVE JOAN ANDERSEN** said if a unit lost 100 students, it would go into a three year average and there might still be a reversion because of that one year lost. She has a problem with the idea that the unit can take whichever number is lower. Can the unit change its mind from year to year as to which formula it will use?

**Connie Erickson** said the reversions are biennial. They might not be making a decision each year. It would probably be done once every biennium.

**REPRESENTATIVE ANDERSEN** asked if the units only do the reversion every other year now.

**Connie Erickson** said that is her understanding.

**REPRESENTATIVE NANCY FRITZ** said she did not understand the whole thing. She did understand that it helps the units a great deal to be able to calculate that they are going to have at least so much money to budget for. During the year, if they lose students, they don't lose programs and faculty immediately. This gives them two years to get it done.

**REPRESENTATIVE JACKSON** said, the way he understands it is, the thing that they want to deal with is fluctuation. If you can have a negative fluctuation from one year to the next, you have to lay off staff, etc., but then if the enrollment goes up the next year, you won't have enough staff for that year. The bill, to him, delays that action and smooths it out. He read the assumptions on the fiscal note and could not see any problems. If they are in a downward spiral and they are using the method offered in the bill, it is going to cost them more in the long run because they are hanging on to more staff than they should for the next year. If it is a downward spiral, they certainly wouldn't want to use this method.

**REPRESENTATIVE OLSON** said looking at the bill, paragraph 3, the reversion is calculated based upon the difference between the full-time equivalent resident enrollment projection and the actual full-time equivalent or the full-time equivalent projection in the prior previous three years. The unit has two choices to pick from. It will use whichever one of those which serves it best.

**REPRESENTATIVE PETERSON** called for the question.

**Vote:** Motion that **HB 505 DO PASS** carried 17-1 with Walters voting no.

**EXECUTIVE ACTION ON HB 181**

**Motion:** REP. ANDERSEN moved that HB 181 DO PASS AS AMENDED.

**Discussion:**

**REPRESENTATIVE KATHLEEN GALVIN-HALCRO** asked if she could address a question to **Bob Runkel**. Isn't there already an IEP written for students who are blind? Why does it need to be included in the bill? **Mr. Runkel** said the answer to the question is yes. He doesn't know why it needs to be in the body of the bill.

**REPRESENTATIVE GALVIN-HALCRO** said she is still in the title of the bill where it is talking about teachers needing to obtain specific skills to deal effectively with the students beyond the special education training that the special education teachers already are required to obtain in their schooling. She asked him to elaborate on what other specific skills would be mandated for teachers to obtain. **Mr. Runkel** said the bill and federal regulations do not specifically identify the types of training that would be required. It speaks to it in a more generic sense and simply says that the teachers must have the skills that are necessary to effectively implement the special education and educational programs for the children. The code of federal regulations 303-382 says in part "that the state will address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with children with disabilities, including both professional and paraprofessional personnel who provide special education, general education, related services or early intervention services, have the skills and knowledge necessary to meet the needs of children with disabilities." What that code of federal regulations basically stipulates is that if teachers do not have the kind of background and training that is necessary to provide services for children and they are the party who is responsible for delivering those services, there is an obligation to properly prepare the personnel in order to do it. It would extend to paraprofessional personnel working on the playground. If a child has an emotional disturbance and is on the playground and the paraprofessional needs some specific skills to de-escalate the child's behavior if there is a confrontation, then the paraprofessional needs to be trained to be able to handle that situation. To some degree, that is also true with the regular education teacher in a regular classroom. It may not be necessary for that teacher to learn how to teach braille because that would be provided by a special education teacher. It might be necessary for the regular education teacher to have a better understanding of blindness.

**REPRESENTATIVE FRITZ** said she thought this situation was already covered by law. Her school had a blind student in a Latin class

and she shared the classroom with that teacher. The Latin teacher didn't have to learn braille, but had to work with the special education teacher, who knew braille, for an hour a day to prepare for the student's classtime. **Mr. Runkel** said those provisions are currently in law to meet those needs. Federal regulations do require that schools meet the needs of the student.

**REPRESENTATIVE OLSON** asked **Mr. Runkel** what is in the bill that is not already covered in present law. **Mr. Runkel** said in Section 3, there is a quote of federal regulations. Section 4 is new and it is not in federal regulations and it requires certain procedures to be followed to obtain materials and imposes certain obligations on textbook publishers. That is not in federal regulations. The personnel standards that he quoted to the committee parallel the statement that is required for preparation of personnel working with kids with disabilities and that is, at least indirectly, included in federal regulations. New Section 6 is new and not required in federal regulations. **REPRESENTATIVE OLSON** asked, what are the responsibilities of local school districts if the bill is passed? **Mr. Runkel** said the new responsibility that would appear in Section 4, as to the procedure that the district is to follow relative to obtaining materials from the school for the deaf and the blind, may involve in the school participating in the study if appropriations are provided to make that study happen. The federal regulations include a lot of provisions and when you add a provision in state law that highlights a certain component of what is already in federal regulations, you can bet that there will become added attention paid to it by the nature that the Montana Legislature has spoken that this is something out of those federal regulations that must be emphasized by the very fact that it was placed in state law. He would anticipate that there would be, as a result of the attention that has already been brought to this issue, requests for additional evaluations, that the Montana School for the Deaf and Blind would be contacted more frequently than they might have otherwise been contacted for braille evaluations. Whether the evaluations result in more braille instruction services and materials remains to be seen. There is that kind of hidden cost relative to the elevation of this particular aspect of the provision of special education services by adding it to state law.

**REPRESENTATIVE ANDERSEN** said she had never taught in a school where the school had a visually impaired child to the point where it would need this kind of specialized instruction. Are there children in Montana who are blind or very visually impaired who are, right now, being instructed with talking books or some other type of instruction rather than learning braille? **Mr. Runkel**

said he believes that to be the main concern of the parties who were present for the hearing. Yes, there are about 170 children who currently meet with definition of having blindness to the point that their vision cannot be corrected better than 2200. They are already receiving materials from the American Printing House for the Blind. The concern that is expressed is that rather than the use of braille and instructing in braille, there may be a tendency to rely on less challenging methods of instruction, meaning easier to deliver services such as talking books and tapes as a substitute for braille. The purpose of the bill tends to emphasize the importance of braille and ensure that other methods should not be substituted if braille is needed. How many of those children there are, he doesn't know for sure.

**REPRESENTATIVE ANDERSEN** asked him if it would be his opinion that the students in this category would be better served if they were instructed in braille because the students are better able to live in society and accept the responsibilities and move forward with their lives because they were able to use braille.

**Mr. Runkel** stated that, in his opinion, that is the case. From everything that he understands about braille, it is a specific skill comparable to reading skill for a non-disabled person. Both the pleasure and the capacity to understand what is being presented to one in written form is a bit different than substituting an audio tape and listening to it. There is a deeper understanding and another method involved when a person is able to read. This is their form of being able to read, so he does believe there is a dimension both in their inter-personal skills and their ability to grasp issues when they have that ability to independently read. **REPRESENTATIVE ANDERSEN** asked him if that would also extend to the ability to write. **Mr. Runkel** said that the link one sees in their own abilities to read and write would apply exactly with blind people. The ability to read translates into a written skill capacity very similar to how others have benefitted in developing their own writing skills.

The **CHAIR** asked him how much the textbooks cost if they aren't provided and the school district has to buy them? **Mr. Runkel** said it is his understanding that the textbooks are quite expensive. He believes we are talking in the thousands of dollars. The **CHAIR** asked if this would be for every subject.

**Mr. Runkel** said this would be for subjects that the student obviously is in need of in receiving instruction in those textbooks. He does not think that means that schools have to go out and purchase books. The American Printing House for the Blind and resources from the Montana School for the Deaf and Blind may already have certain textbooks available for the students. What is asked for in the bill is the electronic version of the book that, if a student needs a chapter printed off, they could use the technology that is available at the

School for the Deaf and Blind. If this bill passes, some schools may be able to use their own machinery to translate that electronic version into a braille version.

**REPRESENTATIVE GALVIN-HALCRO** asked what the cost is for printing the book or chapter that **Mr. Runkel** had just described? He said that he was not sure what the cost is. They would have personnel time, handling, managing of it, the materials, and maintaining the equipment. It would not be free.

**REPRESENTATIVE PETERSON** said that, as he reads the fiscal note, it calls for a \$5,000 expenditure to the general fund for fiscal year 2002 and none for 2003. If one looks at the technical note in the fiscal note, it indicates that there will be a cost of \$69,000 per year for two outreach staff and related travel. Is that an unfunded mandate that is being given to a school? That is no small amount like the \$5,000. He had one constituent contact him by email and the person was against the bill, but didn't elaborate. He was very impressed with the people who spoke in favor of the bill during the hearing.

**REPRESENTATIVE BRANAE** said he had been contacted by someone in Billings who is the administrator who coordinates the services for the blind in the district. He had some real concerns about the bill. He was concerned about the need to have certified people if they are to work with the blind. His other concern was he thought the money could be spent better in other ways.

**REPRESENTATIVE JACKSON** asked **Mr. Runkel** about requirements in Section 6. **Mr. Runkel** said that Section 4 is brand new and has nothing to do with federal regulations. Section 6 is also new. The major work that goes into Section 3 and Section 5 are basically what are required in one form or another under federal regulations.

{Tape : 2; Side : A}

**Connie Erickson** said that, in the bill as introduced, the section about teacher certification has been stricken entirely and it was replaced with the section that says personnel standards. If one looks at the gray bill, that is what the bill currently looks like. The committee adopted the amendments already. As far as the study commission is concerned, the study commission was in the original bill, but it was much more detailed as to what that study commission would do. The original bill talked about who would make up the study commission, amended version says the BPE will appoint a study commission. What the study commission is suppose to do is look at the availability of resources and textbooks. It also says, "subject to an appropriation," which

means if there is no appropriation, either in this bill or **HB 2**, for this commission, this commission will not function. That is the \$5,000 on the fiscal note.

**REPRESENTATIVE JACKSON** asked if the commission people and the government people are to pick up their own costs? What does the \$5,000 cover, sending out a report? **Connie Erickson** said that the section that now has the study commission in the bill doesn't say anything about people serving at their own expense. That is gone. She is assuming that the \$5,000 will probably cover travel expenses for people who would serve on this commission. There is no size for the commission in the current bill. The BPE could appoint three people.

**REPRESENTATIVE GALVIN-HALCRO** said that the state has been asking people in education to do more for less for far too long. This bill takes it to the extreme. It sends an unfunded mandate to classroom teachers, special education teachers, to the Montana School for the Deaf and Blind, for books, staff, and for outreach workers. Until the state can fund this bill properly, she believes the committee should leave it lying on the table.

**REPRESENTATIVE BIXBY** said that blind and visually impaired children need support just as much as children with other disabilities. It is sad that the state has to look at money when it looks at helping these children.

**Vote:** Motion that **HB 181 DO PASS AS AMENDED** failed 5-13 with **Bixby, Jackson, Jacobson, Waddill, and Walters** voting aye.

**Motion:** **REP. MCKENNEY** moved that **HB 181 AS AMENDED, BY A REVERSE VOTE OF 13 - 5 BE TABLED.** Motion carried.

**ADJOURNMENT**

Adjournment: 5:10 P.M.

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REP. GAY ANN MASOLO, Chairman

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NINA ROATCH, Secretary

GM/NR

**EXHIBIT** (edh35aad)